

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>OUTBACK CENTER LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ELBERT COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 48006</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 12, 2008, James R. Meurer and Sondra W. Mercier presiding. Donald C. and Kay M. Nielsen appeared pro se for Petitioner. Respondent was represented by Mark H. Scheffel, Esq. Petitioner is protesting the 2007 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**113 & 117 South Elizabeth Street, Elizabeth, Colorado  
(Elbert County Schedule No. R113332 /Parcel No. 8513118002)**

The subject includes a small single-tenant retail building and a multi-tenant office building on a 1.413 acre site. Building 1, 113 S. Elizabeth St., is currently leased to a party related to the building ownership and is used as a liquor store. Building 1 is 7,980 square feet in size and was completed in 2003. Building 2, 117 S. Elizabeth St., is a three tenant, fully leased office building that was completed in 2006. Petitioner’s square footage of 5,623 and Respondent’s at 5,667 results in a discrepancy of 44 square feet for this building. There is an additional 6,035 square feet of unfinished basement storage space. The subject site has utility easements on the north and west sides along with a landscaped detention area along the west side.

Petitioner is requesting a 2007 actual value of \$1,250,000.00 for the subject property based on original costs. Petitioner contends that Respondent selected sales that were not comparable to the subject because of location and superior quality of construction. Petitioner provided information

regarding assessed values of neighborhood properties arguing inequitable valuation by the assessor's office. The actual value of the subject property for tax year 2007 is at issue in this matter. "[A]ctual value also obliges the assessor to consider the specific attributes of each property's improvements . . . to determine the property's individual worth." *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (1997). Therefore the Board gives little weight to values assigned to other properties. No specific value information was provided by Petitioner.

Petitioner contends that a reduced site size should be used by Respondent, giving consideration to the utility easements and detention area. The Board makes no adjustment, as the subject's easements are typical for commercial development. Neither the easements nor the detention area were shown to detract from the utility of the site.

Respondent presented an indicated value of \$1,423,919.00 for the subject property for tax year 2007, citing the following indicators of value:

Market:	\$1,500,000.00
Cost:	\$1,524,199.00
Income:	\$835,831.00 (Value for Building 2)

Based on the market approach, Respondent presented an indicated value of \$1,500,000.00 for the subject property. Respondent presented numerous sales of properties located in Douglas and El Paso Counties; however, no analysis was included for these sales as Respondent did not believe they represented comparable properties to the subject. Respondent incorrectly concluded to a value under this approach without any analysis of comparable sales.

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$1,524,199.00. A fire sprinkler system was incorrectly attributed to Building 1; however, deducting the concluded cost of the sprinkler system at \$18,673.00 does not cause the total value indicated by this approach to fall below the current assigned value. Respondent incorrectly relied on county-wide data in the land valuation rather than a site specific evaluation.

Respondent used the income approach to derive a value of \$835,831.00 for a portion of the subject property, Building 2. Respondent testified that because Building 1 was currently leased to a party related to the building ownership, it could not be valued under this approach. As the fee simple value is what is determined within the income approach, Respondent incorrectly limited this approach.

Respondent assigned an actual value of \$1,423,930.00 to the subject property for tax year 2007.

Based on a recalculation by the Board, the assigned value for the subject property is upheld. As the income approach is the best indication of the appropriate value for an income producing property, the Board has recalculated the information provided to determine the value for the subject using this approach. The Board was convinced that the current rent for Building 1, at \$11.65 net, and Building 2, at \$18.00 per square foot gross, was reflective of the market given the limited data. By applying the actual rent, along with Respondent's concluded square footage, vacancy factor, expenses, and capitalization rate to both buildings, the indicated value is well above the assigned value.

**ORDER:**

The petition is denied.

**APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Colorado Revised Statutes ("CRS") section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered). Colo. Rev. Stat. § 39-8-108(2) (2007).

**DATED and MAILED** this 20<sup>th</sup> day of May 2008.

**BOARD OF ASSESSMENT APPEALS**

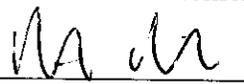
  
James R. Meurer

  
Sondra W. Mercier

This decision was put on the record

**MAY 20 2008**

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

  
Heather Heinlein

